



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup Professionals

MINUTES
of
BOARD MEETING

Held on
June 24, 2010

Meeting Location: MASSDEP, CENTRAL REGIONAL OFFICE
627 Main Street
Worcester, Mass.

Prepared by: T. Wood

[Approved: August 10, 2010]

1. **Call to Order:** Chairperson Janine Commerford called the meeting to order at 2:02 p.m. The other Board members present were Gail Batchelder, Kirk Franklin, Christophe Henry, Gretchen Latowsky, Robert Luhrs, and Kelley Race. Board members absent: Deborah Farnsworth, Jack Guswa and Debra Stake. The LSP Board staff members present were Lynn Read, Terry Wood and Al Wyman. Also present were Wes Stimpson of the LSP Association and Tom Potter of MassDEP.
2. **Announcements:** The following item: 12D. Staffing Requirements was added to the agenda.
3. **Agenda:** The Board members agreed to follow the draft agenda.
4. **Minutes:** The Board reviewed the draft minutes of the meeting of the Board held on April 13, 2010. **A motion was made and seconded to approve the minutes as drafted. The motion was approved unanimously.**
5. **Reports from Recent Quasi Judicial Sessions:** The staff requested and received the Board's unanimous consent to publish in the minutes of this meeting the following report from a previous quasi-judicial session of the Board.

Final Order Re: Complaint 99C-11 and 00C-14

On May 25, 2010, after conducting deliberations at a quasi-judicial session held on April 13, 2010, the Board issued a Final Order in disciplinary matter 99C-011 and 00C-014. In this Final Order, the Board revoked the LSP's license and prohibited him from re-applying for a license as a Hazardous Waste Site Cleanup Professional for a period of five (5) years minus the 128-day period when his license was immediately suspended by the Board. The revocation period begins 30 days from the date the Final Order was issued.

This matter stems from a Complaint filed with the Board by a private party in May 1999, and a second complaint filed by MassDEP in August 2000. After an investigation, the Board made an initial decision that the LSP had violated the Board's Rules of Professional Conduct. The Board also suspended the LSP's license effective immediately on the grounds that an imminent threat to public health, safety or the environment could result before an adjudicatory proceeding could be concluded. The LSP requested an adjudicatory hearing on the findings that he violated the Rules of Professional Conduct and requested an immediate hearing on the necessity for the immediate suspension of his license. In February 2004, the Board held a public hearing on the necessity for the immediate suspension. After the hearing, the Board rescinded the immediate suspension and reinstated the LSP's license pending the completion of the adjudicatory hearing.

The Division of Administrative Law Appeals conducted an adjudicatory hearing on seven days between October and December 2005. The Magistrate issued his Recommended Decision on May 19, 2008. The Board issued its Final Findings of Fact and Rulings of Law on October 30, 2009. The Final Order issued by the Board on May 25, 2010 incorporates those findings and rulings and sanctions the LSP with a revocation of his license and prohibits him from re-applying for a license for a period of five (5) years minus the 128-day period (November 13, 2003 to February 11, 2004) when his license was suspended. The revocation period begins 30 days from the date the Final Order was issued.

The former Board members who served on the Complaint Review Team, Ms. Phillips and Mr. Roberts, were not members of the Board at the time that the Board deliberated, voted, and issued the Final Findings of Fact and Rulings of Law and the Final Order.

The Board members who participated in deliberations and signed the Final Order were as follows: Ms. Batchelder, Ms. Commerford, Ms. Farnsworth, Mr. Franklin, Mr. Guswa, Mr. Henry, Ms. Latowsky, Mr. Luhrs, Ms. Race, and Ms. Stake.

The Respondent LSP's name was not kept confidential during these discussions, because the Board was aware of the LSP's identity due to his presence at the hearing on the immediate suspension. The LSP's name is Joel Loitherstein.

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6. **Decisions Regarding Licensing of Applicants:** The staff presented the following Application Docket:

ID #	Applicant Name/Company Name	ARP #	REC.
5427	Raimundo Matos/AECOM Environment	231	A
7924	Jeffrey W. Garretson/Green Environmental	231	A
8513	Amy E. Walkey/N.A.	231	A

A motion was made and seconded that the Board accept the recommendation from Application Review Panel #231, i.e., that the applications submitted by Mr. Matos, Mr. Garretson and Ms. Walkey be approved and that they be found eligible to take the exam. The motion was approved unanimously.

7. **License Renewal Applications:**

A. Renewal Dockets. The staff presented the following License Renewal Dockets:

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**Renewal Docket #1
Renewal Date: April 30, 2010
New Renewal Date: April 30, 2013**

Completed all requirements for renewal.

- | | |
|--------------------|-------|
| 1. Edward Giordano | #5448 |
| 2. Peter Richards | #4410 |
| 3. David Sherman | #8904 |
| 4. David Sullivan | #1488 |

**Renewal Docket #2
Renewal Date: April 30, 2010
Extension Date: July 29, 2010**

Requesting a 90-day extension:

- | | |
|-------------------------|-------|
| 1. James Keith Sullivan | #1259 |
|-------------------------|-------|

**Renewal Docket #3
Renewal Date: January 30, 2010
New Renewal Date: January 30, 2013**

Has completed all requirements for renewal
within the 90-day extension:

- | | |
|--------------------|-------|
| 2. Richard Eby | #7782 |
| 3. William Gibbons | #5217 |

Renewal Docket #4
Licensed Expired: October 30, 2009
New Renewal Date: July 30, 2013

Has completed all requirements for renewal
within the one year deadline:

- | | |
|---------------|-------|
| 1. John Davey | #3456 |
|---------------|-------|

A motion was made and seconded to renew the licenses of the LSPs on Renewal Dockets #1, #2, #3 and #4 for a three-year period ending on the dates indicated. The motion was approved unanimously.

8. Other Licensing-Related Matters:

- A. New Panel Assignments and Scheduling.** The following Board members were assigned to Application Review Panel # 232: Ms. Commerford, Ms. Batchelder, and Mr. Henry.
- B. Appeals Status Report.** Ms. Wood reported that there are no pending appeals regarding the Board's denial of a license application.
- C. Inactive Status Report.** The staff reported that Brendan MacDonald (#3533) returned to active status on 4/17/10, but his license expired on 4/30/10 for failure to renew his license. A total of 4 LSPs are currently on Inactive Status.
- D. License Suspended for Non-Payment of Annual Fee.** The staff reported that the license of Deborah Wojcicki (#9400) was suspended at the close of business on 4/23/10 for non-payment of the annual fee.
- E. Total Number of Active LSPs.** The staff reported that the total number of Active LSPs as of the date of this meeting was 556.

9. Examinations:

- A. New Licensees.** The staff reported that the following approved applicants passed the licensing exam and are now LSPs:

Exam Date

- Jeffrey Lambert (#3206) 5/6/10
- Rachel Leary (#9458) 5/6/10

B. Date of Next Exam. To be determined.

C. Status Report re: PC-based administration of exam. The staff reported that the administration of the May exam was without incident. Ms. Commerford suggested that Chris Borges, the MassDEP staff person who helped the Board staff choose the exam software, contact the vendor to get rates for adding additional software licenses (we currently have 6 licenses) or for changing to the Internet version of the program. She and Ms. Wood stated they would report back to the Board next month.

10. Continuing Education Committee Report:

A. Course and Conference Approval Requests. Mr. Wyman reported that the Committee had met earlier in the day and had the following course recommendation to present to the full Board:

Sponsor: UMass

Course Title: Green Remediation

Credits Requested: 1:1 Technical Credits for the 24 sessions and 1:2 Technical Credits for the exhibit hall and posters

Committee Recommendation: **Approve this course for 1:2 Technical Credits for both the 24 sessions and the exhibit hall and posters.**

Sponsor: Geologic Society of Connecticut

Course Title: Geologic Society of Connecticut Field Trip

Credits Requested: 6 Technical credits

Committee Recommendation: **Approve this course for 4 Technical Credits.**

Sponsor: LSPA

Course Title: Natural and Historic Fill Soils – Formation and Chemical Quality

Credits Requested: 4 Technical credits

Committee Recommendation: **Approve this course for the credits requested.**

Sponsor: LSPA

Course Title: GIS Applications for Environmental Professionals

Credits Requested: 7 Technical Credits

Committee Recommendation: **Table.** The Committee requested additional information from the course provider.

Sponsor: LSPA

Course Title: Application of MNA for Groundwater Remediation Using BIOCHLOR, BIOSCREEN and Source DK Software Models

Credits Requested: 8 Technical Credits

Committee Recommendation: **Approve this course for the credits requested.**

A motion was made and seconded to accept the Committee's recommendation. The motion was approved unanimously.

A. **Other Business:** None.

11. **Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the meeting of the Professional Conduct Committee held earlier in the day, the Board agreed to forego a Committee report.
12. **Personnel, Budget, and Fees**
The Board discussed the fact that the Board staff has now been reduced from six to three with the sudden death of Brian Quinlan in March. Mr. Luhrs reported that he, Ms. Latowsky, Mr. Guswa and Ms. Commerford recently met with MassDEP Commissioner Burt and Rosemary Powers, the Commissioner's Chief of Staff about the staffing problems at the Board and the Commissioner stated she was unable to offer the Board additional staff. Mr. Stimpson stated that the LSPA Board had drafted a letter to EEA Secretary Bowles stating that the LSPA Board was very concerned about the lack of administrative support at the Board and, up to now, the LSPA has received no response. After discussion, the Board asked the Board's budget subcommittee to request a meeting with EEA Secretary Bowles to discuss Board staffing.
13. **Status of Board Member Replacements by Governor:** Ms. Commerford stated that she and Ms. Wood had recently met with an LSP who had independently sent a letter to the Governor requesting appointment to an LSP slot on the Board.
14. **Other Business:**
 - A. Topic for next article in *LSPA News*. The Board directed the staff to draft an article regarding how the lack of administrative staff at the Board may impact the Board staff's ability to, among other things, process license applications, administer the licensing exam, and process course approval requests.
 - B. Other New Business. There was no other new business.
15. **Scheduling of Next Meeting:** The Board has not yet chosen dates for future meetings.
16. **Adjournment:** The meeting was adjourned at 3:35 p.m.